IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 2424 of 2007(L)

PETITIONER:

M/S.S.S. CHEMICALS,
V/708-A, DEVELOPMENT AREA,
EDAYAR, MUPPATHADOM P.O., ERNAKULAM,
REP. BY ITS MANAGER K.NATARAJAN.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS:

---

1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF INDUSTRIES & COMMERCE, DIRECTORATE OF INDUSTRIES & COMMERCE, MEMBER-SECRETARY, STATE LEVEL COMMITTEE, THIRUVANANTHAPURAM.**

3. **GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.**

4. **THE COMMERCIAL TAX OFFICER, NORTH PARAVOOR, ERNAKULAM.**

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.2424 OF 2007-L

Judgment

The petitioner's claim for exemption from payment of sales tax as a new SSI unit was sanctioned by the General Manager, District Industries Centre, by Ext.P1. Later, on the basis of the finding that the product of the petitioner is included in the negative list, the said exemption was cancelled by Ext.P2. The petitioner filed an appeal against that decision before the State Level Committee. This Court, by Ext.P6 Judgment dated 17.12.2002, has directed the Director of Industries to dispose of the appeal within three months. The petitioner submits, so far the appeal has not been heard. In the meantime, the petitioner has been served with Ext.P10 notice, directing it to pay an amount of Rs.71,58,887/- as arrears of sales tax and penal interest from 1996-97 to 2001-02. The petitioner submits, the collection of tax pending appeal is unjustified. According to it, the exemption if allowed, will come to about Rs.28,70,507/-.

2. I heard the learned Government Pleader appearing for the respondents also. The pendency of an appeal is no reason for not paying tax atleast from the date of Ext.P2 cancellation order. Further, even on the showing of the petitioner, more than Rs.3 lakhs is payable as tax after giving credit to the exemption claimed by the petitioner. The learned Government Pleader further submitted that the petitioner's appeal is listed for hearing on 17.03.2007.

3. If the petitioner pays Rs.5 lakhs and furnishes security for the balance amount due under Ext.P10, the recovery pursuant to Ext.P10 will remain in

abeyance for a period of two months or till the date of disposal of the appeal whichever is earlier.

The Writ Petition is disposed of as above.

21.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

sta